

NATURAL RESOURCES COMMISSION
Meeting Minutes
February 17, 2016

Pursuant to the notice filed with the Town Clerk, the meeting of the Natural Resources Commission was held at 141 Keyes Road, first floor conference room, Concord, MA at 7:00 p.m. on Wednesday, February 17, 2016. The following Commissioners were present: Greg Higgins, Chair, Jeff Adams, Lynn Huggins, Chip Poutasse, and Judy Zaunbrecher. Delia Kaye, Natural Resources Director, Lori Capone, Assistant Natural Resources Director, and Natural Resources Administrative Assistant Kathy Richardson, were also present.

Chair Higgins opened the meeting at 7:00 p.m. in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and the Concord Wetlands Bylaw.

Massachusetts Department of Transportation, Bruce Freeman Rail Trail - Phase 2C, DEP #137-1322	7:00 pm
Milltarry Offices Registered LLP, 91 Lowell Road & 105 Keyes Road, DEP #137-1315	7:15 pm
Frank McGillin, 68 and 18 Cambridge Turnpike, DEP #137-1330	8:30 pm
Richmond, 144 Nashoba Road, DEP #137-1332	8:40 pm

CONTINUANCES

Notice of Intent Application for the Town of Concord - CPW Engineering, Assabet Avenue, DEP #137-1323

Chair Higgins reopened the hearing to install two overflow pipes and rip-rap swales within Bordering Vegetated Wetlands, Land Under Waterbodies and Waterways, Bordering Land Subject to Flooding, the 200-foot Riverfront Area to the Assabet River, and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Adams moved to continue the hearing to March 2, 2016. Commissioner Poutasse seconded. All so voted.

Notice of Intent Application for Massachusetts Department of Transportation, Bruce Freeman Rail Trail - Phase 2C, DEP #137-1322

Chair Higgins reopened the hearing to build a multi-use recreational trail to include paving with stone dust graded shoulders, markings and signage; construction of three parking areas; reconstruction of a pedestrian underpass; rehabilitation and/or construction of two bridges; construction of stormwater BMPs and culvert replacement; earthwork, landscaping, and rest areas with associated pavement markings and signage, and interpretive signs within Land Under Waterbodies and Waterways, the 200-foot Riverfront Area to Jennie Dugan Brook, the Assabet River, and Nashoba Brook, and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent - Revised Plans (CD) prepared by Greenman-Pedersen, Inc., last revised February 3, 2016
- January 12, 2016 McGregor Comments - Response provided by Nover-Armstrong Associates, dated February 4, 2016
- Evaluation of Alternatives, last revised February 3, 2016
- Environmental Monitor ITEM 755.5, prepared by MassDOT

- Clearing and Grubbing Selective Clearing and Thinning ITEMS 101, 102, 102.3, prepared by Mass DOT
- Invasive Plant Prevention Plan ITEM 768.13, prepared by MassDOT
- Recharge System Sizing Calculations
- Infiltration Trench Design (Sta 131+35 to 133+33 LT)
- Letter from Mr. and Mrs. Gregor McGregor, dated January 12, 2016

Marcia Rasmussen, Director of Planning and Land Management, Lindsay Barbee and Rebecca S. Williamson, P.E. of Greenman-Pedersen, Inc., and Marta J. Nover of Nover-Armstrong Associates, Inc., attended tonight's meeting.

Since the last meeting Ms. Barbee summarized plan changes that were made including, removal of the restroom from the 50-foot No Build Zone, added limit of work and erosion controls at the culvert crossing, additional tree trimming, modified parking lot near Commonwealth Avenue, modified drainage structures and pipes, and several cross culverts were changed to trench drains due to concerns with providing appropriate cover over proposed culverts. Ms. Barbee also talked about additional comments from the staff that were previously addressed with Director Kaye, such as adding erosion controls that were missing where they have proposed temporary rip rap. They also revised the alternatives analysis and relocated a bench and sign outside the 50-foot No Build Zone. In addition, they removed Vinca minor from the bio-retention area plant list.

Chair Higgins asked if the design of the restrooms might be provided by someone else. Marcia Rasmussen, project manager for the Town on the Bruce Freeman Rail Trail, said that currently there are no funds. It will be an issue that the Bruce Freeman Rail Trail Advisory Committee will consider in the future but it is not part of the construction of the rail trail.

Commissioner Adams asked if there would be an environmental monitor overseeing this project. Ms. Nover said the MassDOT specifications were created specifically for this project to include an environmental monitor. Commissioner Adams noted concern about the size of the equipment and the response was that appropriate sized equipment would be used. Commissioner Adams said the smallest equipment that could reasonably complete the proposed work should be used and questioned how that gets conveyed to the contractor. Ms. Nover said it was for the contractor to determine the means and methods to complete the work, and not dictated by the MassDOT. Commissioner Adams asked how MassDOT could help with their suggestion to incorporate that because it could leave it very open ended otherwise. Ms. Williamson said the language provided in the general special provision is that there are limits where the contractors can work, and that the disturbance has to be minimal. The language is to minimize any impact. Chair Higgins asked who would govern if the person brings in a huge piece of equipment. Ms. Williamson said that that is part of the responsibility of the resident engineer. Director Kaye said a special condition to minimize the size of equipment used could be included in the Order. Commissioner Zaunbrecher asked if that would be a role the environmental monitor would play. Director Kaye agreed that the environmental monitor will not be able to dictate the type of equipment but can have input on the equipment size. She added that when the project goes to construction, staff will hold a preconstruction meeting to make sure the environmental monitor, contractor, and MassDOT, are all aware of this concern.

Lydia Rogers, 210 Old Pickard Road, asked if she could get a copy of the Notice of Intent. There were no other comments from the public.

Director Kaye said that CPW has reviewed the drainage and is comfortable with the project. They would like the drainage system surveyed post construction. Chair Higgins asked about an as-built for the drainage system. Ms. Williamson suggested the Commission add it as a special condition as MassDOT no longer requires contractors to do as-builts.

Commissioner Adams moved to close the hearing for Massachusetts Department of Transportation, Bruce Freeman Rail Trail - Phase 2C, DEP #137-1322. Commission Zaunbrecher seconded. All so voted.

Notice of Intent Application for Milltarry Offices Registered LLP, 91 Lowell Road & 105 Keyes Road, DEP #137-1315

The applicant is seeking approval to construct a commercial market/office building, with associated parking, walkways, and drainage, a portion of which work is within Bordering Land Subject to Flooding, the 200-foot Riverfront Area to Mill Brook, and the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Project Narrative to Accompany Notice of Intent prepared by Hughes Environmental Consulting, Amended February 3, 2016
- Appendix B - Wetland Habitat Assessment prepared by Oxbow Associates, dated February 3, 2016
- Permit Plan prepared by Oak Consulting Firm, last revised February 1, 2016
- Site: Materials Plan L.1.1 and Site: Planting Plan L.2.1 prepared by Brown Sardina Inc., dated November 11, 2015

Thomas Hughes of Hughes Environmental Consulting, Scott Smyers of Oxbow Associates, Inc., Joel Kahn of Equity Alliance LLC, Sean Malone of Oak Consulting Group, LLC, and James White of Milltarry Offices Registered LLP, attended tonight's meeting.

Joel Kahn provided the Commission with the status of the project to date as it relates to meeting with other boards and commissions.

Tom Hughes presented Plan Sheets 301 and 302 concerning the proposed construction of a parking deck over an isolated vegetated wetland to obtain the Commission's feedback. Mr. Hughes explained how the parking deck met the performance standards for work in Bordering Land Subject to Flooding, and providing appropriate compensatory storage. They have hired Oxbow Associates to evaluate the 10-year floodplain for important wildlife habitat. Mr. Hughes explained that typically the 10-year floodplain is located adjacent to a body of water and therefore provides important wildlife habitat. In this case, the 10-year floodplain in the Isolated Vegetated Wetland did not connect to a waterbody and therefore was not important for wildlife habitat.

Mr. Smyers presented his findings. He evaluated the isolated vegetated wetland in late May and early June 2013 at a time when he would have expected to see amphibians but he did not find any, presumably due to the degradation in water quality as untreated stormwater presently discharges into this wetland. The pH was found to be good at 6.8 but Mr. Smyers felt that this wetland functioned only for flood storage and storm damage prevention and did not provide important wildlife habitat.

Chair Higgins asked Mr. Smyers what would grow under the proposed deck to which Mr. Smyers responded “not much”. Commissioner Zaunbrecher asked if the area was assessed for birds and mammals since 21 trees are proposed to be removed, or invertebrates only. Mr. Smyers said as an invertebrate expert, his focus was on invertebrates but he also filled out Appendix B Wildlife Habitat Evaluation for other species. Director Kaye agreed that the wetland does not function as a vernal pool but does provide broader wildlife habitat. Mr. Kahn stated that they will plant more trees than they remove from the isolated wetland and Mr. Hughes added that 310 CMR 10.60 allows for the impact on wildlife to be evaluated based on conditions two years post-construction, and saplings planted are considered for habitat they will provide at maturity. Mr. Hughes further added that invasive species management would be provided along Mill Brook which will provide a substantial wildlife habitat improvement .

Mr. Malone of Oak Consulting Group LLC explained the changes to drainage and how the compensatory storage was being provided. Mr. Malone explained that two catch basins discharging to Mill Brook will be retrofitted with deep sumps and oil/grease hoods to improve water quality being discharged to Mill Brook and three stormceptors would be added prior to drainage being discharged to the isolated wetland. A third party review of the drainage has been completed by Horsely Whitten Group through the Planning Board. The only outstanding concerns related to pipe sizes and revisions to the Operations and Maintenance Plan.

Commissioner Adams asked whether the drainage design will address the rust bubbling out of the catch basin in the middle of the parking lot. Mr. Malone was not aware of this issue but Mr. Hughes said that this could be natural, created by anoxic conditions. Mr. Kahn said that the entire drainage system would be inspected and they will fix anything that needs fixing.

Mr. Malone went on to discuss the compensatory storage being created by digging out portions of the isolated wetland with additional flood storage being created adjacent to Mill Brook: 4,500 cubic feet of floodplain being filled and 9,500 cubic feet of compensatory storage being provided.

Chair Higgins asked why the applicant was proposing a parking deck if their parking calculations show that adequate parking was already provided on site. Mr. Kahn explained that the applicant’s traffic consultant determined there was adequate parking but the site will not conform to the parking requirements of the Zoning Bylaw so this was an effort to provide additional parking should the Planning Board find it necessary. Chair Higgins asked if they had ever constructed a similar parking deck over a wetland and what the ramifications were. No members of the design team had constructed a similar project.

Chair Higgins asked if this is a two phase project, and if the proposed design improves the water quality within the isolated wetland under Phase I such that the isolated wetland started to function as a vernal pool, what ramification that would have on constructing Phase II. Chair Higgins stated that the NRC could consider construction of the parking deck but the Commission needs to understand the Planning Board’s position on it and what benefits it provides. Commissioner Adams stated that the parking deck did not strike him as making sense but he would engage in further discussions moving forward.

There were no public comments.

The applicant agreed to continue the hearing to the April 20, 2016 meeting.

Notice of Intent Application for Frank McGillin, 68 and 18 Cambridge Turnpike, DEP #137-1330

The applicant is seeking approval to demolish the existing shed and construct an attached garage within the 100-foot Buffer Zone to Bordering Vegetated Wetland and the 200-foot Riverfront Area to Mill Brook.

List of plans and documents discussed at this meeting:

- Wetland Permitting Plan prepared by Stamski and McNary, last revised on February 5, 2016

Richard Harrington of Stamski and McNary, Inc. and Frank McGillin, owner, attended tonight's meeting.

Mr. Harrington presented the updated plan showing proposed mitigation for the work in the Buffer Zone including adding an invasive species management area and incorporating pervious pavement for the driveway within the 100-foot Buffer Zone. All work is outside the 100-year floodplain. Six concrete bounds with 12-inch reveal are proposed to demarcate the new lot line to prevent additional encroachments. Commissioner Adams asked if they were removing the shed to which Mr. Harrington responded affirmatively.

Chair Higgins asked about the invasive management plan and whether six plantings were enough to revegetate the area. Mr. Harrington said the planting area is roughly 10-foot by 20-foot and the remainder would be maintained as lawn to prevent invasives from establishing. Commissioner Huggins expressed concern with considering lawn as mitigation, suggesting the area be seeded with a conservation seed mix instead of lawn. Mr. Harrington said along the edge of the driveway is manicured lawn, the shrub area is proposed as a physical barrier between the driveway and the floodplain behind it. Commissioner Huggins reiterated that they should not show mowed lawn as mitigation. Mr. Harrington said if the Commission preferred, the grass could be allowed to naturalize to which the Commission responded that if the area is not managed and allowed to naturalize, it will become populated with invasive species. The Commissioners advised Mr. Harrington to revise the plan by eliminating the hatched area as mitigation. Mr. Harrington said they would submit a new plan showing this change.

There were no public comments.

Commissioner Adams moved to close the hearing and issue an Order of Conditions approving the amended plan eliminating the hatched area, for McGillin, 68 and 18 Cambridge Turnpike, DEP File#137-1330, with Findings A, B, and C, Standard Conditions 1-19 and Special Conditions 20-55. Commissioner Poutasse seconded. All so voted.

NEW APPLICATIONS

Notice of Intent Application for Ha Richmond, 144 Nashoba Road, DEP #137-1332

The applicant is seeking after-the-fact approval to resurface the existing driveway, construct a paved turn-around area, and landscape within the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent Application prepared by Oxbow Associates, Inc., dated February 2, 2016;
- Driveway Addition Plan prepared by Schofield Brothers, LLC, dated January 20, 2016; and,
- Planting Plan prepared by Elizabeth Hanna Morss, Landscape Architect, dated January 18, 2016

Erynn Dayhoff of Oxbow Associates, Inc. and Lili Morss, Landscaping Architect, attended tonight's meeting.

Chair Higgins recused himself from the hearing because the applicant was a former neighbor who will soon be a neighbor again. Commissioner Huggins took over as temporary Chair for this hearing.

Ms. Dayhoff said that during their initial site visit, on December 11, 2015, the driveway was already packed dirt and erosion controls were already in place. They delineated an off-site intermittent stream on the easterly parcel whose Buffer Zone extends onto the subject property. The proposed project is the resurfacing of the existing driveway. The grades will remain the same and the additional construction of a small turn around area will be about 525 sf. There is also an existing vegetable garden currently within the 50-foot No Build Zone, which will be relocated to the outer Buffer Zone. The proposed work is already in the disturbed area and there are straw mats and wattles in place.

Ms. Morss said the plan is to revegetate disturbed areas with native shrubs, fern, and blueberry sod. Immediately around the parking area the client would like some screening using a combination of viburnum, winterberry holly, mountain laurel, and swamp azalea. They would also like to use a ground cover of Vinca minor or pachysandra. Trees seen in the Google Earth aerial were removed before her client bought the property. The only remaining one is a large sugar maple at the beginning of the driveway. The client would like to have a vegetable garden with cedar posts and wire mesh fencing. Field stone and stepping stone will be used as a path to get to the garden with some groundcover and ornamental shrubs on the outside. Director Kaye suggested using partridgeberry or Galium in lieu of Vinca minor. Ms. Morss concurred.

Commissioner Adams asked for the current status of invasive species. Ms. Morss said there were some multi-flora roses, buckthorn and blackberries that were removed. There are also some in the undisturbed area that they'd like to take out and re-vegetate. The area between the 25' and 50' Buffer Zone has already been cleared out. There are a lot of plantings proposed which will require removing the rest of the invasives. Assistant Director Capone said when she met with John Durkin of Onyx Corporation he said it was all Japanese knotweed so we need to wait until spring to see what comes back up.

Commissioner Adams suggested an Invasive Management Plan for the Buffer Zone and that a site-wide analysis of invasive species be conducted. Commissioner Adams explained that the Commission looks at the whole site to determine whether the project provides a net benefit to the resource area. Evaluating the site as a whole will help the Commission evaluate work that was previously done without prior approval.

Ms. Dayhoff added that the property has been in disarray for some time now and the only new thing would be the turn around. Given the plantings being proposed, and the erosion controls

that are in place, Ms. Dayhoff believed that the net benefit is good. Commissioner Adams said that site wide the property has changed quite a bit even though the client did not do most of the changes. The goal is to improve the site with a robust invasives plan. Ms. Dayhoff asked if they had to wait until spring or can the project be approved before then. Director Kaye suggested they present a plan for invasives removal within the Buffer Zone and stated that an Order of Conditions could be issued at the next meeting. It should include assessing what invasives are there, how they plan to remove them, and what they will be planting. Director Kaye suggested they use only native plants. Commissioners agreed it can be approved by staff.

There were no comments from the public.

The applicant agreed to the Commission continuing the hearing to March 2, 2016.

MINOR MODIFICATIONS

Middlesex School Music Center, 1400 Lowell Road, DEP #137-1303

List of plans and documents discussed at this meeting:

- Site Preparation Plan (SP100) prepared by Stantec, revised February 2, 2016
- Layout and Materials Plan (L100) prepared by CRJA Landscaping Architects, revised February 2, 2016
- Grading Plan (L200) prepared by CRJA Landscaping Architects, revised February 2, 2016
- Utility Plan (L300) prepared by Stantec, revised February 2, 2016
- Planting Plan (L400) prepared by CRJA Landscaping Architects, revised February 2, 2016
- Pavement Details (L500) prepared by CRJA Landscaping Architects, revised February 2, 2016
- Seat Wall Details (L501) prepared by CRJA Landscaping Architects, revised February 2, 2016
- Staircase Details (L502/L503) prepared by CRJA Landscaping Architects, revised February 2, 2016
- Planting Details (L504) prepared by CRJA Landscaping Architects, revised February 2, 2016
- Utility Details (L601) prepared by Stantec, revised February 2, 2016

Steven McKeown from The Middlesex School, Catherine Offenberg of CRJA Landscaping Architects, and Frank Holmes of Stantec Planning and Landscaping Architecture, attended tonight's meeting.

Mr. McKeown introduced Mr. Holmes and Ms. Offenberg.

Mr. Holmes presented the modifications to the plan including the addition of a 2-foot strip of reinforced turf to the driveway to comply with new NFP requirements that weren't in effect at the time of approval and some planting revisions. There is a decrease in impervious area and a decrease in disturbed area. There were also some minor stormwater adjustments to catch basin locations.

Ms. Offenbergl addressed the changes to landscaping in the Buffer Zone. The 2-foot strip of reinforced turf is comprised of a layer of 2-inch stone dust topped with 1 inch of loam which appears like lawn. It was added to comply with the 20-foot clearance required by the Fire Department. The major change to landscaping was to reduce the amount of disturbance within the Buffer Zone by adjusting the size of the trees and shrubs. In the previous plan there were 18 4-inch caliper trees, but they determined there was a greater risk of failure than planting smaller ones in the Buffer Zone and creating less disturbance. They are now proposing reducing the caliper to 1.5-inch and planting 54 trees, tripling the number. In terms of the understory, they would also like to make an adjustment to size and quantity from 279 to 560 shrubs using one gallon container plants instead of the original proposal of 2.5-foot high shrubs. The area would still be seeded with an appropriate native conservation seed mix. They have also increased the diversity of the plant list.

Commissioner Adams said it sounds like the smaller sizes would be better. Director Kaye said small trees and shrubs have a better chance of survival than larger trees.

Commissioner Adams moved to approve the Minor Modification as revised. Commissioner Zaunbrecher seconded. All so voted.

Walsh/O'Hara, 163 Lindsay Pond Road, DEP #137-1279

List of plans and documents discussed at this meeting:

- Drawing of proposed new site prepared by Platt Builders, dated February 10, 2016

John Costa of Platt Builders, Jeff Parker, Hydrologist Engineer, and Mr. Walsh attended tonight's meeting.

Mr. Costa stated the irrigation well location that was previously approved was non-productive and asked for approval to drill in one of three other locations, all within the 50-foot No Build Zone. He said they drilled down 1,000 feet and produced less than a half-gallon per minute. When asked by Commissioner Adams if fracking was an option, Mr. Costa said it was not. Chair Higgins asked what they needed and Mr. Costa said they were looking for 15 gallons per minute. Fracking might result in 4-8 gallons per minute. Chair Higgins asked why they needed so much and Mr. Costa said it was what the landscape architect recommended. Chair Higgins thought that was more water than needed.

Mr. Parker explained why the proposed sites were more likely to provide good water flow.

The Commission advised the Mr. Costa and Mr. Parker to re-evaluate the site for a well location outside the 50-foot No Build Zone. The Commission was comfortable with staff approving a revised plan showing the well location outside the 50-foot No Build Zone.

CERTIFICATES OF COMPLIANCE

Patriot Realty, 1173 Main Street, DEP #137-319

Assistant Director Capone advised the Commission that this was an Order of Condition to remove a leaking underground tank. DEP has confirmed that the area has been cleaned up and recommends the Commission issue a Certificate of Compliance.

Commissioner Adams moved to issue a Certificate of Compliance to Patriot Realty for work at 1173 Main Street under DEP File #137-319. Commissioner Zaunbrecher seconded. All so voted.

Patriot Realty, 1173 Main Street, DEP #137-404

Assistant Director Capone advised the Commission that this was an Order of Conditions to construct an addition to the building. The Order did not require an as-built but Stamski & McNary have confirmed substantial compliance with the Order of Conditions.

Commissioner Adams moved to issue Certificates of Compliance for Patriot Realty at 1173 Main Street for work under DEP #137-404. Commissioner Zaunbrecher seconded. All so voted.

OTHER BUSINESS

38A Virginia Road, Gaining Ground, one-time liquor license

Director Kaye said Gaining Ground would like to thank volunteers and sponsors for the recent barn raising with a celebration at the farm. Town Counsel has confirmed that since they lease the property from the Town, serving alcohol would not be in violation of the Town Bylaw but the land is also governed by the Concord Conservation Land Regulations which prohibit alcohol on Town conservation land. Chair Higgins asked if there was any liability and Director Kaye responded that as part of the Select Board approval, Gaining Ground would need to secure a certificate of insurance and hire a certified bartender for the event.

Commissioner Zaunbrecher moved to approve serving alcohol at Gaining Ground, 38A Virginia Road, on one day in May 2016. Commissioner Adams seconded. All so voted.

Discuss Town Warrant Articles

The Commission reviewed the various Warrant Article for the April 2016 Town Meeting. Commissioner Adams moved to support Articles 20-Community Preservation Committee Appropriation Recommendations and 23-Land Acquisition - Ball's Hill Road. Commissioner Poutasse seconded. All so voted.

Director's Report

Director Kaye requested dates for a site inspection of the Ball's Hill Road property. All Commissioners agreed to either Wednesday February 23rd or Friday, February 26th at 3:00 pm. Director Kaye will confirm date and time.

Administrative Approvals

- **Redmond, 43 Off Harrington Avenue:** Assistant Director Capone presented the Administrative Approval for a portico to the front entry located 197 feet from Kennedy's Pond/Second Division Brook. The Commission had no questions or concerns with the proposed work.
- **Banfield, 73 Walden Terrace:** Director Kaye presented an Administrative Approval to prune some hazardous limbs at 73 Walden Terrace. The Commission had no questions or concerns with the proposed work.
- **Huggins, 54 Hawthorne Lane:** Director Kaye presented an Administrative Approval to remove five hazardous trees one of which crushed a gazebo from the recent wind storm. The Commission had no questions or concerns with the proposed work.

Ms. Huggins will work with staff to replant the area adjacent to Mill Brook with shrubs this spring.

Approve Meeting Minutes

- Commissioner Adams moved to approve February 2, 2016 NRC meeting minutes as amended. Commissioner Huggins seconded. All so voted.
- Commissioner Zaunbrecher moved to approve February 2, 2016 NRC Executive Session meeting minutes. Commissioner Poutasse seconded. All so voted.

Commissioner Adams moved to adjourn. Commissioner Zaunbrecher seconded. All so voted. This meeting adjourned at 9:45 p.m.

Respectfully submitted,

Kathy Richardson
Administrative Assistant